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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

CITY OF MONTEBELLO, Plaintiff and Respondent, v. JAYE MARK URIBE, Defendant and Appellant.	B206672 (Los Angeles County Super. Ct. No. BS103919)

APPEAL from a judgment of the Superior Court of Los Angeles County, David P. Yaffe, Judge. Affirmed.

Law Offices of Mark E. Goodfriend, Mark E. Goodfriend and Rachel S. Ruttenberg for Defendant and Appellant.

Best Best & Krieger, Charisse L. Smith, Kira L. Klatchko and Douglas S. Phillips for Plaintiff and Respondent.

Defendant and appellant Jaye Mark Uribe appeals from the January 17, 2008 judgment and order awarding attorney fees in favor of plaintiff and respondent City of Montebello in an action for appointment of a receiver to cure substandard housing conditions. No appeal was taken by Uribe from the trial court's earlier December 18, 2007 order approving the receiver's final plan, discharge, and payment of fees.

Uribe makes the following arguments on appeal: (1) approximately 80 percent of the repairs and expenditures by the receiver were for conditions which were not included in the notices to him, resulting in denial of an opportunity to correct the defects and a violation of due process of law; (2) the amounts he was required to pay the receiver and the City were excessive and an abuse of discretion by the trial court.

We agree with the City that this court is without jurisdiction to consider Uribe's due process contention, because no appeal was taken from the December 18, 2007 appealable order approving the receiver's final plan and payment of fees. For the same reason, we lack jurisdiction to consider Uribe's argument that the amount of fees and costs awarded to the receiver were excessive and an abuse of discretion. As to Uribe's argument that is cognizable on appeal—that the attorney fee award to the City was an abuse of discretion—there is no basis for reversal of the award because Uribe's contention is not supported with argument or citation of authority in his opening brief. Accordingly, we affirm the judgment and award of attorney fees.

PROCEDURAL HISTORY

The City filed a petition for appointment of a receiver pursuant to Health and Safety Code section 17980.7 on July 6, 2006. The petition alleged that since 2004 the City had unsuccessfully attempted to obtain code compliance from Uribe regarding the substandard conditions at his four-unit apartment building in

Montebello. The trial court appointed Eric P. Beatty to serve as receiver. Beatty filed his proposed rehabilitation plan and repair costs estimate on November 21, 2006. Uribe objected to the plan on February 16, 2007, arguing he did not receive adequate notice of the scope of rehabilitation and an opportunity to correct the defects. The court approved Beatty's rehabilitation plan on February 26, 2007, specifically rejecting Uribe's opposing argument. Thereafter, Beatty filed monthly status reports detailing his work in bringing the property into compliance with applicable codes.

On November 27, 2007, Beatty filed a motion for an order, seeking in part, approval of his final report and accounting and his fees and costs, and for discharge as receiver. On December 6, 2007, Uribe filed an opposition to Beatty's request for fees and costs, challenging Beatty's failure to rent two of the four units while acting as receiver, the amount paid for liability insurance, the length of time of the receivership, and miscellaneous costs. Uribe asked the trial court to reduce Beatty's fees and costs by between $31,000 and $35,000. On December 18, 2007, the court issued an order approving Beatty's final report and final accounting, and approving his claimed fees and costs in the amount of $50,425.98. No notice of appeal was filed from this order.

A judgment was signed by the trial court on January 17, 2008. The court ruled the City was the prevailing party on the petition for appointment of a receiver for purposes of attorney fees and costs, which were awarded in the amount of $53,000 to the City. On March 14, 2008, Uribe filed a notice of appeal from the January 17, 2008 judgment and award of attorney fees. The notice of appeal made no mention of the December 18, 2007 order awarding fees and costs to Beatty.

DISCUSSION

Uribe's Challenge to the Lack of Notice of the Conditions Requiring Repair

Uribe first contends that his due process rights were violated because the City did not give him notice of 80 percent of the work performed by the receiver, which deprived him of the opportunity to correct the deficiencies. The City argues that Uribe's failure to appeal from the final approval of the receiver's fees and costs, which was entered on December 18, 2007, precludes review of the issue. We agree.

"As noted by the Court of Appeal, the filing of a timely notice of appeal is a jurisdictional prerequisite. 'Unless the notice is actually or constructively filed within the appropriate filing period, an appellate court is without jurisdiction to determine the merits of the appeal and must dismiss the appeal.' [Citations.] The purpose of this requirement is to promote the finality of judgments by forcing the losing party to take an appeal expeditiously or not at all. [Citation.]" (*Silverbrand v. County of Los Angeles* (2009) 46 Cal.4th 106, 113.)

A notice of appeal in a general jurisdiction civil action must specify the judgment or order from which the appeal is taken. (Cal. Rules of Court, rule 8.100 (a)(2).) An order fixing payment to a receiver is appealable, even if the award preceded a final judgment. (*Los Angeles v. Los Angeles C. Water Co.* (1901) 134 Cal. 121, 122-124; *Fish v. Fish* (1932) 216 Cal. 14, 15-17.) This rule is consistent with our Supreme Court's holding that there is an appealable order "where a trial judge orders either payment of money or the performance of some act." (*Samuel v. Stevedoring Services* (1994) 24 Cal.App.4th 414, 418, citing *Bauguess v. Paine* (1978) 22 Cal.3d 626, 634, fn. 3 [order to pay sanctions]; *In re Marriage of Skelley* (1976) 18 Cal.3d 365, 368 [orders reducing temporary spousal support and denying attorney fees]; *Sarracino v. Superior Court* (1974) 13 Cal.3d 1, 9 [order to pay attorney fees]; *Grant v. Los Angeles, etc. Ry. Co.* (1897) 116

Cal. 71, 74-75 [order fixing receiver's compensation].) Accordingly, the December 18, 2007 order was appealable.

Uribe's argument that the award of costs and fees to Beatty was a violation of due process, based upon a lack of proper notice and an opportunity to repair the code violations was rejected by the trial court in both its initial order approving Beatty's rehabilitation plan and estimate of costs on February 26, 2007, and in its order approving Beatty's costs and fees on December 18, 2007. However, those orders are not mentioned in the notice of appeal, and it is undisputed no appeal was taken from them. A notice of appeal must expressly specify each appealable judgment. (*Sole Energy Co. v. Petrominerals Corp.* (2005) 128 Cal.App.4th 212, 239; *DeZerega v. Meggs* (2000) 83 Cal.App.4th 28, 43.) We are without jurisdiction to consider Uribe's claim that he was denied due process in connection with the work performed by Beatty as receiver, due to the lack of a proper notice of appeal.

The fact that Beatty is not a party to this appeal demonstrates why this court lacks jurisdiction to consider the merits of Uribe's first contention. A court appointed receiver is an officer of the court who is not an agent for any party in the action. (*City of Santa Monica v. Gonzalez* (2008) 43 Cal.4th 905, 930.) The award of costs and fees to Beatty, as a receiver, was not an award in favor of the City, and no relief from that order on the basis of a denial of due process can be made the City's responsibility. If Uribe desired appellate relief of the award in favor of Beatty, it was incumbent upon him to appeal from the order awarding costs and fees. We cannot grant relief in favor of Uribe, and against Beatty, in an appeal in which Beatty has not been properly joined.

Claim of an Award of Excessive Costs and Fees to Beatty and the City

Uribe's second argument is that the trial court's awards of costs and fees to Beatty and the City were excessive and therefore an abuse of discretion.

To the extent Uribe challenges the amount awarded to Beatty as an abuse of discretion, we again hold there is no appellate jurisdiction over the issue. As set forth above, the lack of a notice of appeal regarding the award in favor of Beatty precludes review of the issue.

Uribe's argument that the award of costs and attorney fees to the City in the amount of $53,000 is excessive is properly before this court. However, the sum total of this contention in his opening brief is one sentence, with no citation of authority and no discussion of how the award in favor of the City was an abuse of discretion. The following is the extent of Uribe's argument that the award of attorney fees was excessive:

> "In view of the predominance of expenditures by the Receiver for items that were not the subject of notice or an opportunity to cure before the receivership, and the violations of Health & Safety Code section 17980, subdivision (c) and due process, the orders and judgment requiring Uribe to pay a total of over $150,000 to the receiver or the City were an abuse of discretion, and should be reversed."

The failure to cite authority or develop an argument with reference to any specific alleged deficiencies in the record constitutes a waiver of the issue on appeal. (*Magic Kitchen LLC v. Good Things Internat. Ltd.* (2007) 153 Cal.App.4th 1144, 1161-1162; *Moulton Niguel Water Dist. v. Colombo* (2003) 111 Cal.App.4th 1210, 1215 ["Contentions are waived when a party fails to support them with reasoned argument and citations to authority"]; *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785 ["When an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as waived"].) "The waiver is not cured by argument and citations in plaintiffs' reply brief: 'It is elementary that points raised for the first time in a reply brief are not considered by the court.' [Citations.]" (*Magic Kitchen LLC v. Good Things Internat. Ltd., supra,* at pp. 1161-1162.)

Assuming we were to reach the issue, Uribe has failed to demonstrate reversible error. Uribe's argument, as explained in his reply brief, is as follows: Beatty was not entitled to be paid for work Uribe claims was not specifically identified in the notices of violation; some of the City's legal expenses were attributable to the work Beatty should not have performed; and therefore the City's attorney fees award should be reduced to the extent the fees were attributable to the unauthorized repairs.

Uribe's argument fails for three reasons. First, to the extent Uribe relies on a challenge to the work performed by Beatty as receiver, we have already held that the issue is not cognizable on this appeal. If unauthorized work was performed by Beatty, Uribe was required to challenge that by appeal from the December 18, 2007 order, not by a challenge to an award of attorney fees to the City.

Second, the trial court specifically continued the hearing on the receiver's rehabilitation plan from January 10, 2007, to February 26, 2007, for the express purpose of providing Uribe notice of the planned corrective actions and an opportunity to cure the defects. On February 2, 2007, the City filed a detailed notice of the work to be performed. At the hearing on February 26, 2007, the trial court explained that it continued the case to be certain Uribe had notice of the repair plan and an opportunity to commit to do the work proposed by the receiver himself. The court expressly found that Uribe was not willing to make the necessary repairs. Uribe has made no showing that the court's determination was not supported by substantial evidence.

Third, Uribe provides this court with no itemization of what specific aspect of the award of attorney fees in favor of the City is attributable to work that should not have been performed. An appealed judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564; *State Farm Fire & Casualty Co. v. Pietak* (2001) 90 Cal.App.4th 600, 610.) We presume that substantial evidence supports the judgment unless the appellant demonstrates otherwise. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 881.) Having failed to

identify precisely what portion of the attorney fee award is unauthorized, Uribe has not sustained his burden of demonstrating reversible error. (Cal. Const., art. VI, § 13.)

DISPOSITION

The judgment is affirmed. Costs on appeal are awarded to respondent City of Montebello.

KRIEGLER, J.

We concur:

TURNER, P. J.

MOSK, J.